

(a) *Application for restructuring* means a written request—

(1) From a borrower for the restructuring of a distressed loan in accordance with a preliminary restructuring plan proposed by the borrower as a part of the application;

(2) Submitted on the appropriate forms prescribed by the qualified lender; and

(3) Accompanied by sufficient financial information and repayment projections, where appropriate, as required by the qualified lender to support a sound credit decision.

(b) *Certified lender* means a qualified lender that has been certified for financial assistance under section 6.4 of the Act.

(c) *Cost of foreclosure* means:

(1) The difference between the outstanding balance due as provided by the loan documents on a loan made by a qualified lender and the liquidation value of the loan, taking into consideration the borrower's repayment capacity and the liquidation value of the collateral used to secure the loan;

(2) The estimated cost of maintaining a loan classified as a high-risk asset;

(3) The estimated cost of administrative and legal actions necessary to foreclose a loan and dispose of property acquired as the result of the foreclosure, including attorneys' fees and court costs;

(4) The estimated cost of changes in the value of collateral used to secure a loan during the period beginning on the date of the initiation of an action to foreclose or liquidate the loan and ending on the date of the disposition of the collateral; and

(5) All other costs incurred as the result of the foreclosure or liquidation of a loan.

(d) *Distressed loan* means a loan for which the borrower does not have the financial capacity, as determined by the lender, to pay according to its terms and which exhibits one or more of the following characteristics:

(1) The borrower is demonstrating adverse financial and repayment trends;

(2) The loan is delinquent or past due under the terms of the loan contract;

(3) One or both of the factors listed in paragraphs (d) (1) and (2) of this section, together with inadequate

collateralization, present a high probability of loss to the lender.

(e) *Foreclosure proceeding* means:

(1) A foreclosure or similar legal proceeding to enforce a lien on property, whether real or personal, that secures a noninterest-earning asset or distressed loan; or

(2) The seizing of and realizing on non-real property collateral, other than collateral subject to a statutory lien arising under title I or II of the Act to effect collection of a nonaccrual or distressed loan.

(f) *Loan* means a loan made to a farmer, rancher, or producer or harvester of aquatic products, for any agricultural or aquatic purpose and other credit needs of the borrower, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products.

(g) *Qualified lender* means:

(1) A System institution that makes loans (as defined in paragraph (f) of this section) except a bank for cooperatives; and

(2) Each bank, institution, corporation, company, union, and association described in section 1.7(b)(1)(B) of the Act, but only with respect to loans discounted or pledged under section 1.7(b)(1) of the Act.

(h) *Restructure or restructuring* means rescheduling, reamortization, renewal, deferral of principal or interest, monetary concessions, and the taking of any other action to modify the terms of, or forbear on, a loan in any way that will make it probable that the operations of the borrower will become financially viable.

[53 FR 35454, Sept. 14, 1988, as amended at 58 FR 48791, Sept. 20, 1993]

§ 614.4513 Uninsured voluntary and involuntary accounts.

(a) Borrowers may make voluntary advance payments on their loans or, under agreement with a System institution, may make voluntary advance conditional payments intended to be applied to future maturities. The monies in the advance conditional payment accounts may be available for return to the borrower in lieu of increasing his

Farm Credit Administration

§ 614.4516

loan. System institutions may pay interest on advance conditional payments for the time the funds are held unapplied at a rate not to exceed the rate charged on the related loan(s). System institutions shall hold any advance conditional payments received in accordance with this section in voluntary advance payment accounts.

(b) System institutions may establish involuntary payment accounts including, but not limited to, funds held for the borrower, such as loan proceeds to be disbursed for which the borrower is obligated; the unapplied insurance proceeds arising from any insured loss; and total insurance premiums and applicable taxes collected in advance in connection with any loan.

[53 FR 35454, Sept. 14, 1988]

§ 614.4514 Protection of borrowers who meet all loan obligations.

(a) A qualified lender may not foreclose on any loan because of the failure of the borrower to post additional collateral, if the borrower has made all accrued payments of principal, interest, and penalties with respect to the loan.

(b) A qualified lender may not require any borrower to reduce the outstanding principal balance of any loan made to the borrower by any amount that exceeds the regularly scheduled principal installment payment (when due and payable), unless:

(1) The borrower sells or otherwise disposes of part or all of the collateral and the proceeds from the sale or disposition are not applied to the loan; or

(2) The parties agree otherwise in a written agreement entered into by the parties.

(c) After a borrower has made all accrued payments of principal, interest, and penalties with respect to a loan made by a qualified lender, the lender shall not enforce acceleration of the borrower's repayment schedule due to the borrower having not timely made one or more principal and/or interest payments.

(d) If a qualified lender places any loan in a noninterest-earning status and such action results in an adverse action being taken against the borrower, such as revocation of any undisbursed loan commitment, the

lender shall document such change of status and promptly notify the borrower in writing of such action and the reasons therefore. If the borrower was not delinquent in any principal or interest payment under the loan at the time of such action and the borrower's request to have the loan placed back into accrual status is denied, the borrower may obtain a review of such denial before the appropriate credit review committee pursuant to §§ 614.4441 and 614.4443. The borrower must request such a review within 30 days after receipt of the notice.

[53 FR 35454, Sept. 14, 1988, as amended at 58 FR 48791, Sept. 20, 1993]

§ 614.4515 [Reserved]

§ 614.4516 Restructuring policy and procedures.

Loan restructurings are to be accomplished in accordance with the policy adopted by the bank board of directors under section 4.14A(g) of the Act.

(a) *Notice.* When a qualified lender determines that a loan is or has become a distressed loan, the lender shall provide written notice to the borrower that the loan may be suitable for restructuring. The qualified lender shall include with such notice:

(1) A copy of the policy of the lender established under section 4.14A(g) of the Act that governs the treatment of distressed loans; and

(2) All materials necessary to enable the borrower to submit an application for restructuring on the loan. Such notice shall be provided not later than 45 days before a qualified lender begins foreclosure proceedings with respect to any such loan outstanding to the borrower. In the case of a loan involving more than one primary obligor, the requirements of this section will be satisfied by providing the notice to any one of such parties.

(b) *Opportunity for meeting.* The lender shall provide any borrower to whom a notice has been sent with a reasonable opportunity to meet personally with a representative of the lender:

(1) To review the status of the loan, the financial condition of the borrower, and the suitability of the loan for restructuring;